

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION E-3889
DECEMBER 16, 2004

R E S O L U T I O N

Resolution E-3889. Pacific Gas & Electric for approval of its 2003 quarterly short-term procurement transaction compliance filings demonstrating that power procurement activities during the record period January 1 through December 31, 2003 were in conformance with the guidelines set forth in its Commission-approved Short-Term Procurement Plan filed with the Commission on November 15, 2002.

By Advice Letters: (1) AL 2377-E, filed May 1, 2003; (2) AL 2402-E, filed July 15, 2003; (3) AL 2434-E, filed October 30, 2003; (4) AL 2469-E, filed January 30, 2003; and supplemental advice letter AL 2469-E-A, filed on March 16, 2004.

SUMMARY

This Resolution approves Pacific Gas & Electric Company's (PG&E) quarterly procurement transaction compliance filings covering the record period January 1 through December 31, 2003 and orders the disclosure of summary information reflecting those transactions.

Energy Division concludes that PG&E's procurement transactions are in compliance with its Commission-approved 2003 Short-Term Procurement Plan (2003 STTP). The focus of the Energy Division's review is on whether the utility's procurement activities are consistent with its procurement plan. Eligibility of procurement transactions for cost recovery is reviewed and determined in the Energy Resource Recovery Account (ERRA) proceeding.

Ordering Paragraph (OP) No. 8 of D.02-10-062 requires each of the three major electric utilities to file each quarter's procurement transactions that conform to its short-term procurement plan by advice letter following the close of the quarter.¹ The purpose of these compliance filings is to demonstrate that electric and natural gas procurement activities conducted during the record period conform to the guidelines set forth in the Commission-approved 2003 STTPs.²

PG&E requested that each of its quarterly compliance filings be effective on the same date that each filing was submitted.

The quarterly filings submitted by PG&E include confidential appendices intended to demonstrate its compliance with the 2003 STTP. PG&E submitted those appendices as Confidential Material protected by Section 583 of the Public Utilities Code, which prohibits disclosure of confidential public utility information except by Commission order or in the course of a hearing or proceeding.

This resolution approves Advice Letters 2377-E, 2402-E, 2434-E, 2469-E, and 2469-E-A effective today and orders the disclosure of summary information relating to those transactions by authorizing publication of the unredacted resolution. Accordingly, all text in this resolution which appears on pages 7 through 19 plus portions of pages 20-21 in the unredacted copy, and which is

¹ OP No.8 of D.02-12-062 originally required the utilities to file the compliance advice letters within 15 days of the end of the quarter. On September 23, 2003, the Commission's Executive Director granted a joint request by PG&E and San Diego Gas & Electric Co. to extend the due date of the third quarter filing to October 30 (i.e., 30 days from close of the quarter). In D.03-12-062, the Commission revised the compliance filing requirement to within 30 days of the end of the quarter for all subsequent quarterly compliance filings (see OP No. 19).

² Natural gas procurement and gas risk management activities covered by the STTPs are aimed at supporting electricity generation from Utility Retained Generation, Qualifying Facilities contracts, and new and existing power purchase contracts. Gas supply procurement and management conducted by utilities for the California Department of Water Resources' long-term power purchase contracts (i.e., contracts with tolling provisions) are not covered by the STTPs, but rather by separate Gas Supply Plans.

currently- marked “[REDACTED]” in the redacted copy, should be made public via posting on the PUC’s website upon Commission approval of this resolution.

BACKGROUND

Ordering Paragraph No. 8 of D.02-10-062 orders the three major electric utilities to file quarterly compliance advice letters following the close of each quarter detailing all procurement transactions executed in compliance with their Commission-approved 2003 Short-Term Procurement Plans.

On October 29, 2001, the Commission issued R.01-10-024, *Order Instituting Rulemaking to Establish Policies and Cost Recovery Mechanisms for Generation Procurement and Renewable Resource Development*. R.01-10-024 was issued to: (1) establish the regulatory framework under which the three IOUs shall resume power procurement responsibilities by January 1, 2003 (in lieu of the California Department of Water and Power); and (2) comply with Public Utilities Code Section 701.3, which requires that renewable resources be included in the mix of new generation facilities serving the state.

D.02-10-062, an Interim Opinion in R.01-10-024, approved the utilities’ 2003 STPPs and ordered certain modifications to be reflected in an updated procurement plan filing. As part of the approval of the STPPs granted in D.02-10-062, the Commission authorized the utilities to use a range of procurement processes and products, and established the Energy Resource Recovery Account for purposes of ensuring timely cost recovery of procurement-related costs.

Conclusion of Law (COL) No. 7 outlined the quarterly compliance filing process as follows:

“The utilities should file each quarter’s procurement transactions that conform to the approved plan by advice letter. The advice letter should contain all information in the adopted master data request at Appendix B. The Commission’s Energy Division should review the transactions to ensure [that] the prices, terms, types of products, and quantities purchased of each product conform to the approved plan. Consistent with [Assembly Bill] 57, any transaction submitted by advice letter that is found to not

comport with the adopted procurement plan may be subject to further review.”

For any procurement transactions that do not comport with an adopted STPP, D.02-10-062 instructed the utility to present such transactions for Commission review by an expedited application process set forth in Appendix C of the decision. It should be noted that cost recovery eligibility of the procurement transactions is not assessed as part of the quarterly compliance filing review process. Instead, cost recovery eligibility is conducted in each utility’s respective ERRA proceeding (See PG&E application A.03-08-004).

In D.02-12-074, the Commission approved the utilities’ modified STPPs and each utility commenced procurement activities under the authority of their respective STPPs. In accordance with Commission directive stated in OP No. 8 of D.02-10-062, PG&E filed four quarterly advice letters covering its procurement activities during calendar year 2003.

NOTICE

Notice of Advice Letters 2377-E, 2402-E, 2434-E, 2469-E, and 2469-E-A was made by publication in the Commission’s Daily Calendar. PG&E states that copies of the Advice Letters were mailed and distributed in accordance with Section III-G of General Order 96-A.

PROTESTS

PG&E Advice Letters 2377-E, 2402-E, 2434-E, 2469-E, and 2469-E-A were not protested.

DISCUSSION

Energy Division’s review of PG&E’s quarterly compliance advice letters evaluates whether PG&E’s procurement activities during the record period comply with the utility’s approved 2003 STPP. The Commission separately reviews cost recovery of these transactions in the ERRA proceeding.

As required by D.02-10-062, Appendix B, Adopted Master Data Request for Quarterly Advice Letters, PG&E is required to file specific information in its quarterly compliance filing.³ PG&E's response to each Master Data Request item was filed as Confidential Protected Material under PU Code Section 583 and pursuant to the May 30, 2003 Modified Protective Order in R.01-10-024. This resolution, including the tables, graphs and narratives presented below, is based entirely on data submitted by PG&E as protected by Section 583.

Notwithstanding PG&E's claim of confidentiality over this data, the Energy Division recommends that the Commission make public all of the information presented in this resolution. By sunshining this data, the Commission will make plain to the public at large the bases for Commission decision-making.

In making this recommendation, the Energy Division recognizes the tradeoff the Commission faces as it balances the competing interests of (i) keeping confidential certain information which, if released, could reveal PG&E's procurement strategy and trading practices, thereby placing it at a competitive disadvantage in energy markets for future transactions, to the detriment of California ratepayers and (ii) allowing members of the public to review the Commission's oversight of energy procurement.⁴ The Energy Division has aggregated the most sensitive transaction data by quarterly time periods. The Energy Division therefore believes that the information it seeks to make public would not compromise PG&E's power procurement trading strategies and practices. Disclosure of information submitted pursuant to Section 583 is therefore warranted in order to further the Commission's responsibility to engage in open decision making.

³ The caption for Appendix B to D.02-10-062 incorrectly referenced the compliance filings as a monthly advice letter. Appendix B was subsequently modified by D.03-06-076, Order Modifying Decisions 02-10-062 and 02-12-074 and Denying Rehearing, to correct the Appendix B caption to reflect a quarterly advice letter filing schedule.

⁴ Consistent with its obligations under Section 454.5(g) of the Public Utilities Code, the Commission implemented procedures that require utilities to disclose market sensitive information related to resource procurement to parties who sign a confidentiality agreement limiting use and disclosure of such information. Administrative Law Judge Ruling Regarding Confidential Information and Effective Public Participation, April 4, 2003 Ruling in R.01-10-024. The aggregated information released today can be examined by anyone without signing a confidentiality agreement.

The confidential protected material presented below (which includes information concerning transaction processes, product types, purchase and sales volumes, price ranges, system conditions and procurement needs, and counterparties) is redacted in the public version of this resolution. The Energy Division recommends that the Commission make that information public by authorizing publication of the unredacted resolution. Accordingly, all text in this resolution which appears on pages 7 through 19 plus portions of pages 20-21 in the unredacted copy, and which is currently marked “[REDACTED]” in the redacted copy, should be made public via posting on the PUC’s website upon Commission approval of this resolution.

During the First Quarter of 2003, PG&E was a net seller of energy in January and February, and a net buyer of energy in March.

January

PG&E was a net seller of forward energy in January. PG&E's residual net long position during the month is attributable to the very wet hydro conditions in the state, which produced substantial must-take hydro generation, and the integration of DWR contracts into PG&E's portfolio of existing resources.

February

PG&E's purchases increased significantly in February. Sales also increased relative to January. The increase in purchases is due primarily to two conditions: (1) Diablo Canyon Unit 2 was out of service for scheduled refueling; and (2) rainfall in the month was below normal resulting in less PG&E hydro generation. Economic sales of energy increased relative to January levels as market prices were higher than dispatch prices.

March

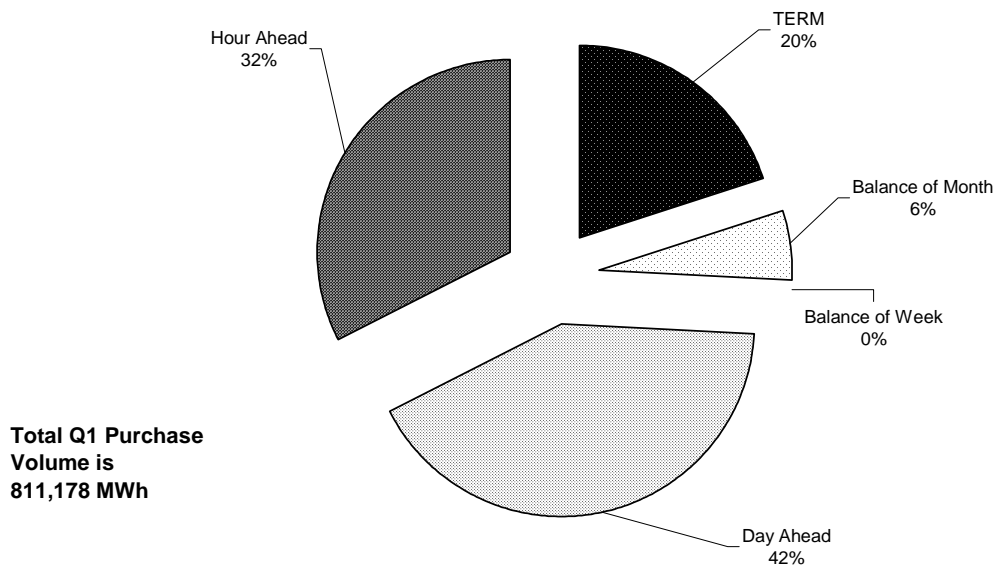
PG&E was a net buyer of energy in March. PG&E attributes the increase in purchases relative to February to: (1) continued dry hydro conditions; (2) a delay in the return of Diablo Canyon Unit 2 from its refueling outage; and (3) high gas prices causing dispatch costs of certain contracted generating units to rise substantially, thereby necessitating market purchases. Also in March, PG&E issued two Request For Offers (RFOs). Under the first RFO, PG&E solicited for full requirements contracts for gas fuel supply to serve the Humboldt and Hunters Point power plants (both plants are ISO Reliability Must Run units). Under the second RFO, PG&E solicited energy option products needed to meet a 7 percent reserve requirement during peak hours in the upcoming summer months. Ten contracts were selected as part of that RFO in April 2003.

Table 1. First Quarter 2003 Procurement Transactions by Type

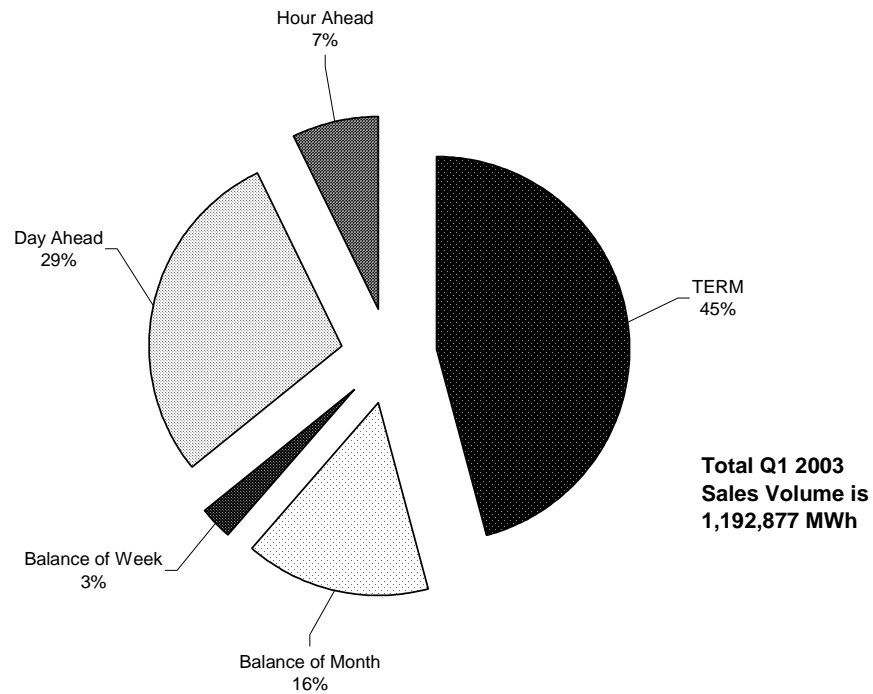
Transaction Type	Number of Transactions
Term (Month)	48
Balance of Month	16
Balance of Week	3
Day Ahead	952
Hour Ahead	1,628
Total	2,647

Note: This table does not reflect ISO real-time imbalance and supplemental energy transactions. Transactions include both purchases and sales.

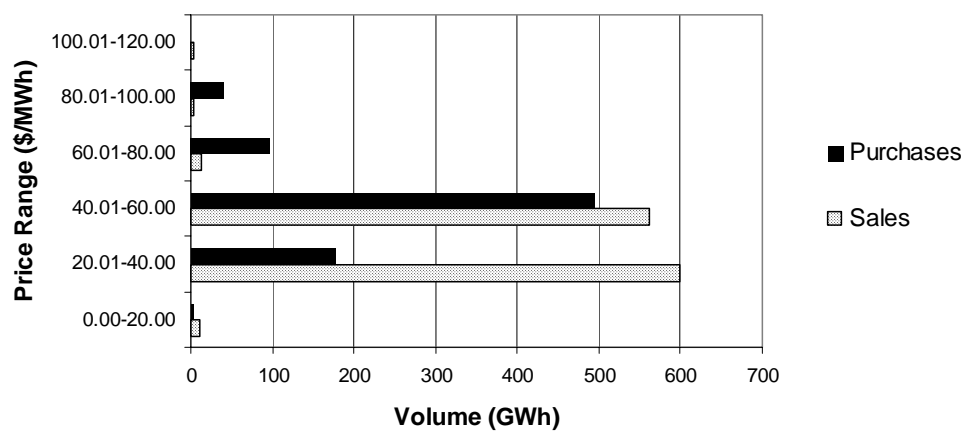
**PG&E Q1 2003 Purchases
by Product Term as Percent of Total Purchase Volume**



**PG&E Q1 2003 Sales
by Product Term as Percent of Total Sales Volume**



Q1 2003 PG&E Electric Purchases and Sales: Price Histogram



During the Second Quarter of 2003, PG&E was a net buyer of energy in April and a net seller of energy in May and June.

April

PG&E was a net buyer of energy in April. Purchases were driven primarily by the late return of Diablo Canyon Power Plant Unit 2 from a refueling outage. PG&E also notes that rainfall totals in northern California in April were substantially above normal and, as a result, PG&E was able to store more water for its Helms units. The increase in PG&E's hydro generation capacity caused market prices to fall. Also in April, PG&E issued a RFO for ancillary services products (non-spinning and/or spinning reserves). No contracts were awarded under this RFO because either the refreshed prices were too high or the delivery point was to SP-15 as opposed to the required NP-15 delivery location.

May

PG&E was a net seller of energy in all forward markets as a result of above average rainfall and the late melting of snowpack. These conditions pushed PG&E's system to maximum level of hydro generation. According to PG&E, spot market prices during the month dipped, reflecting must-take hydropower conditions. In May, PG&E executed two heat rate option exchanges to add additional capacity to its portfolio for the summer months.

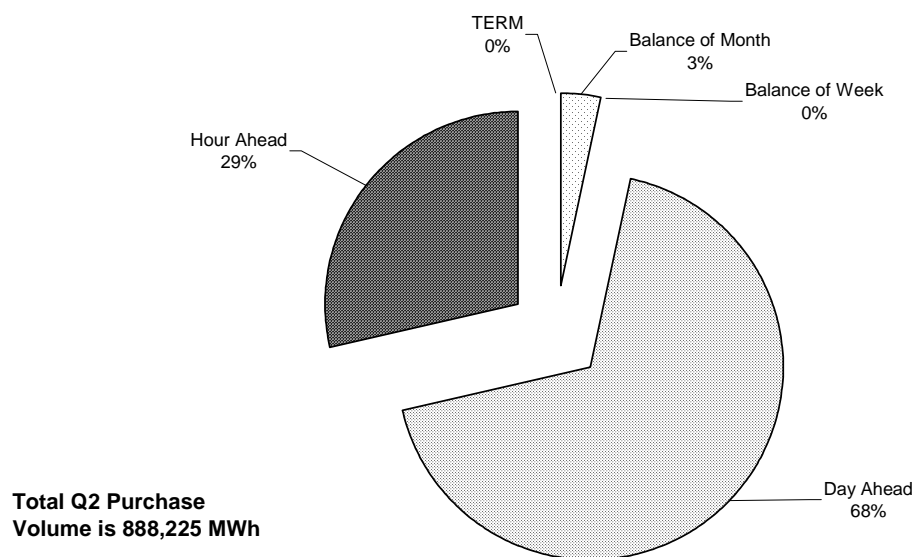
June

PG&E was a net seller of energy in forward markets as a result of favorable hydropower conditions. Loads were slightly below normal during the early part of the month, but increased to normal by the end of the month. In June, PG&E added two more heat rate option exchange contracts to further add capacity capability to meet summer reserve requirements.

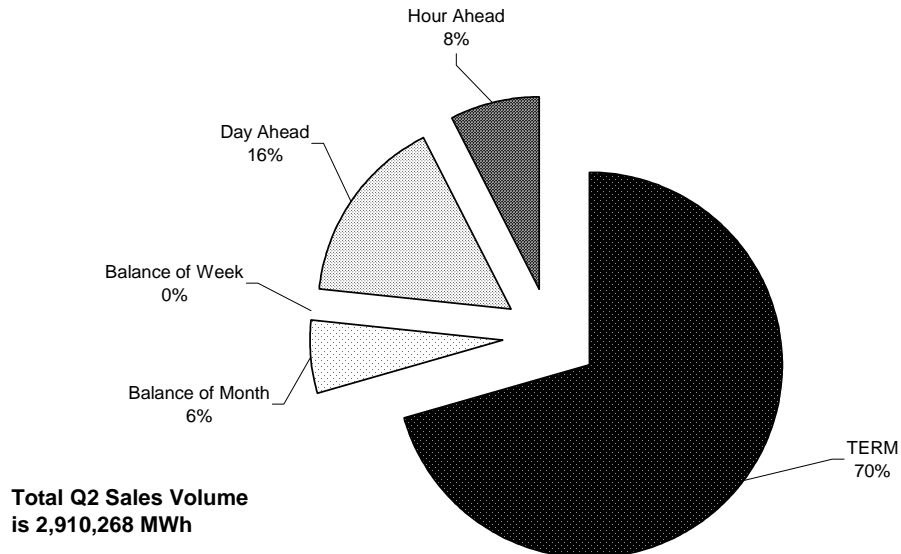
Table 2. Second Quarter 2003 Procurement Transactions by Type

Transaction Type	Number of Transactions
Term (Month)	142
Balance of Month	19
Day Ahead/Balance of Week	1,457
Hour Ahead	2,258
Total	3,876

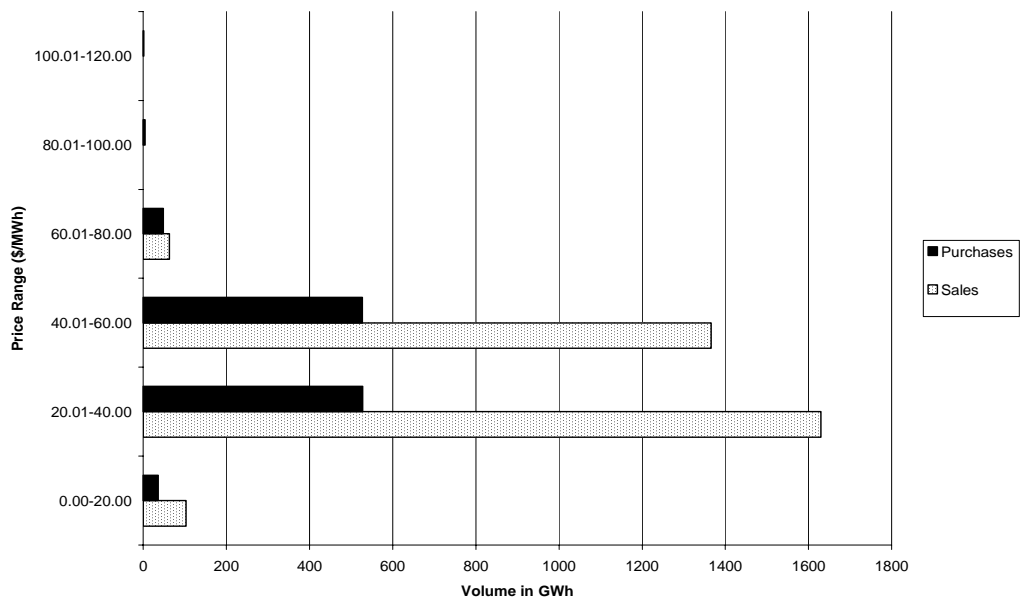
**PG&E Q2 2003 Purchases
by Product Term as Percent of Total Purchase Volume**



**PG&E Q2 2003 Sales
by Product Term as Percent of Total Sales Volume**



Q2 2003 PG&E Electric Purchases and Sales: Price Histogram



During the Third Quarter of 2003, PG&E was a net seller of energy in July, August and September.

July

PG&E was both a seller and buyer of energy in forward markets. Loads in the ISO control area reached near record levels in July. PG&E hydro generation was above normal due to above normal precipitation during 2003. Gas prices fell throughout the month. In this month, PG&E entered into three fixed price call options contracts for firm energy with delivery beginning in August.

August

PG&E was a net seller of energy in forward markets. Loads were fairly normal and hydro generation was slightly above normal. Gas prices crept upwards during the month, but fell towards the close of the month.

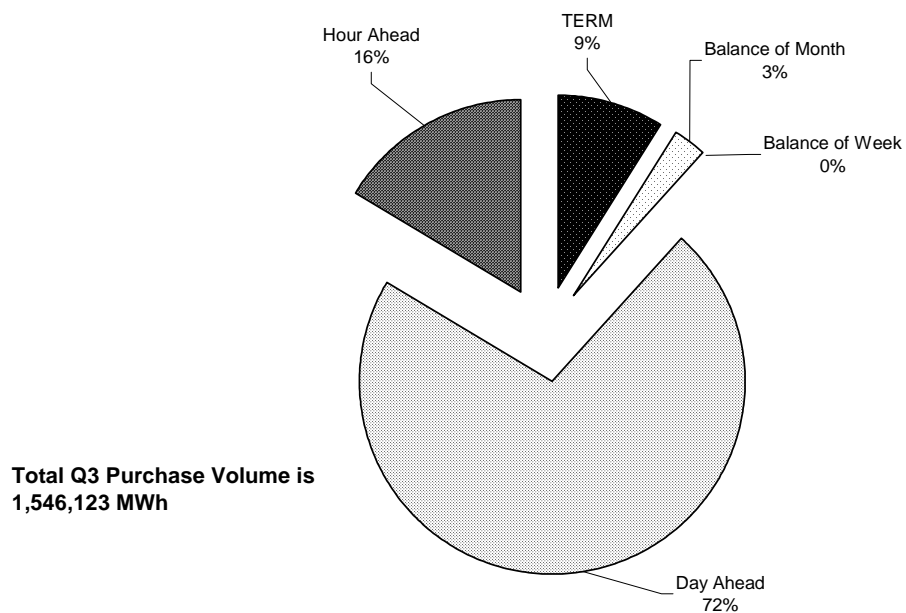
September

PG&E was a net seller of energy in forward markets. Gas prices declined from summer highs. PG&E experienced no significant problems with generation or transmission.

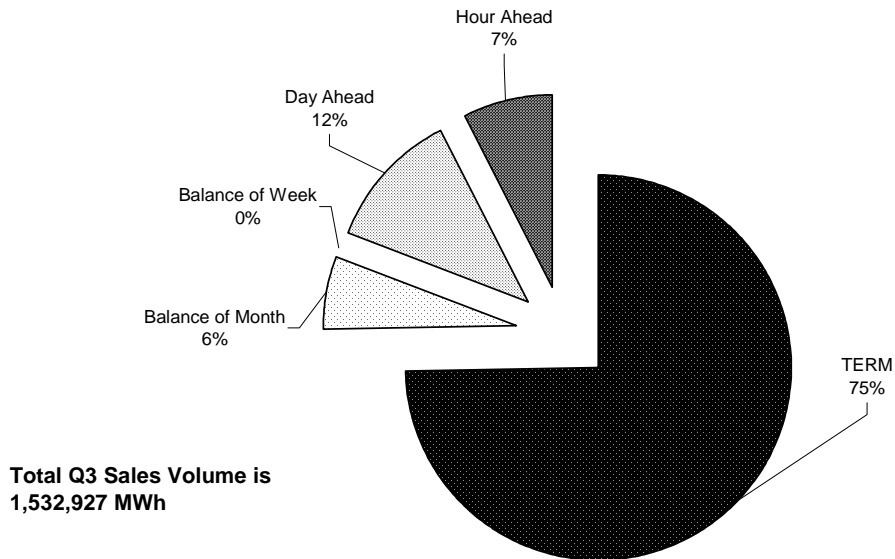
Table 3. Third Quarter 2003 Procurement Transactions by Type

Transaction Type	Number of Transactions
Term (Month)	28
Balance of Month	13
Day Ahead/Balance of Week	1,802
Hour Ahead	1,928
Total	3,771

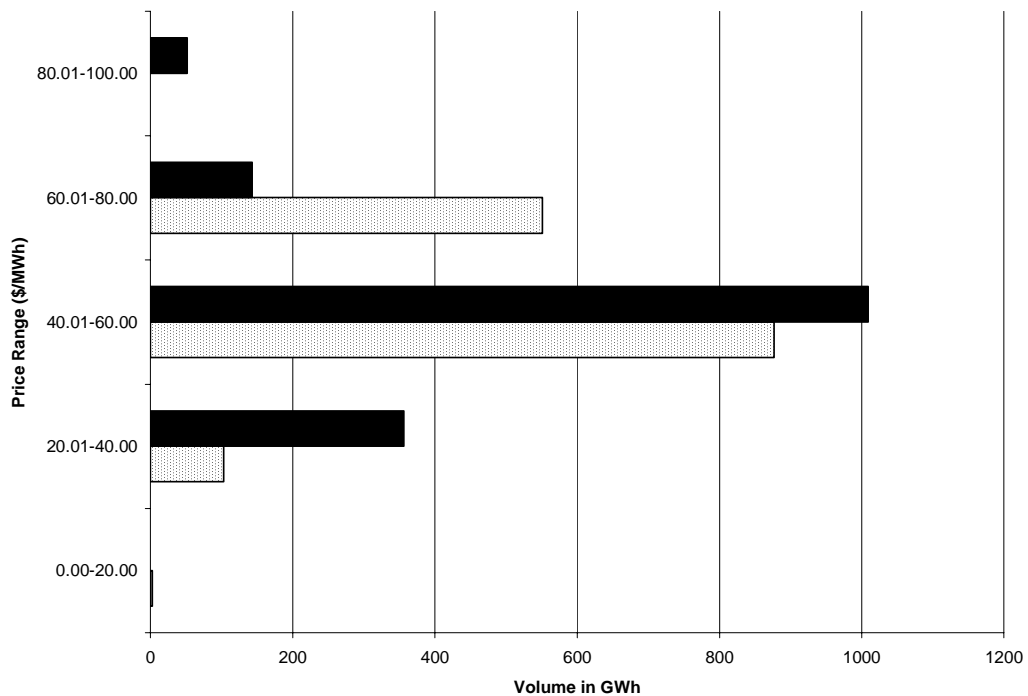
**PG&E Q3 2003 Purchases
by Product Term as Percent of Total Purchase Volume**



**PG&E Q3 2003 Sales
by Product Term as Percent of Total Sales Volume**



Q3 2003 PG&E Electric Purchases and Sales: Price Histogram



During the Fourth Quarter of 2003, PG&E was a net seller of energy in October and a net buyer in November and December.

October

PG&E was a net seller of off-peak energy and a net buyer of on-peak energy in forward markets. PG&E reported difficult operating conditions for October. During the month there were many days when Path 15 was congested or congestion was forecasted. Similarly, there were several days when Path 26 was near its limit or was congested. PG&E engaged in locational spread transactions to minimize potential transmission congestion costs. Unusually warm weather and wildfires in southern California during the last week of the month caused transmission limitations and unit outages in SP 15. Notwithstanding these stresses, market prices for power during the month were generally low and allowed PG&E to displace dispatchable resources with market purchases (economic short position).

November

PG&E was a net buyer of energy as a result of favorable market prices. Daily on-peak market prices were generally lower than the cost of PG&E's dispatchable resources, hence PG&E engaged in market purchases. PG&E also executed locational spread transactions to minimize potential congestion cost risks associated with moving energy generated in ZP 26 to PG&E's load. Forward market prices in month-ahead markets were higher than day-ahead markets. Gas prices held steady during the month. Also in November, PG&E executed three contracts.

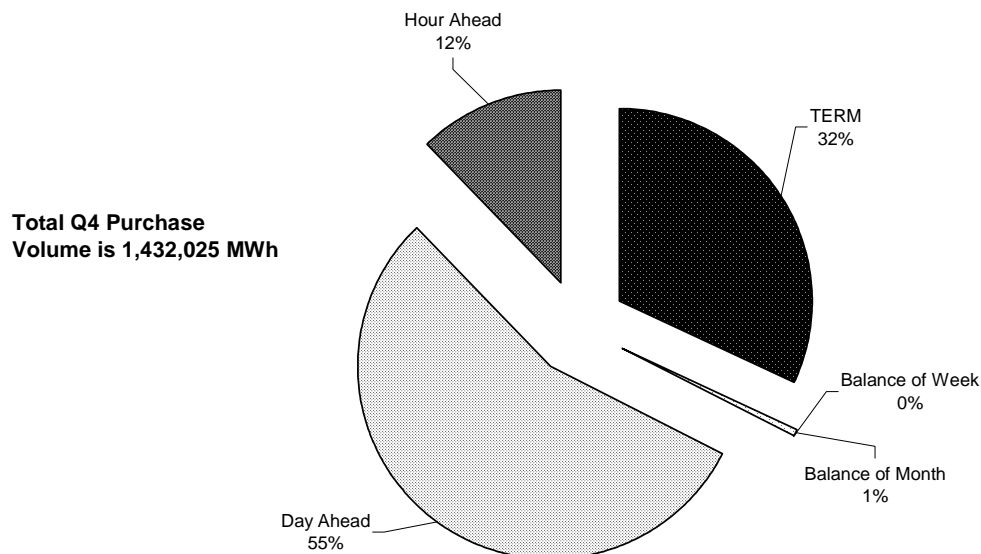
December

PG&E was a net buyer of energy in forward markets. As in previous months, PG&E executed locational spread transactions related to its long position in ZP 26. A winter storm from December 9 - 12 caused the loss of 1,900 MW of capacity from Diablo Canyon. Hydro generation during the month was variable with below normal output during the first part of the month. These conditions led PG&E to enter into balance of month transaction to hedge against spot market exposure. Gas and electric prices were highly volatile during the month.

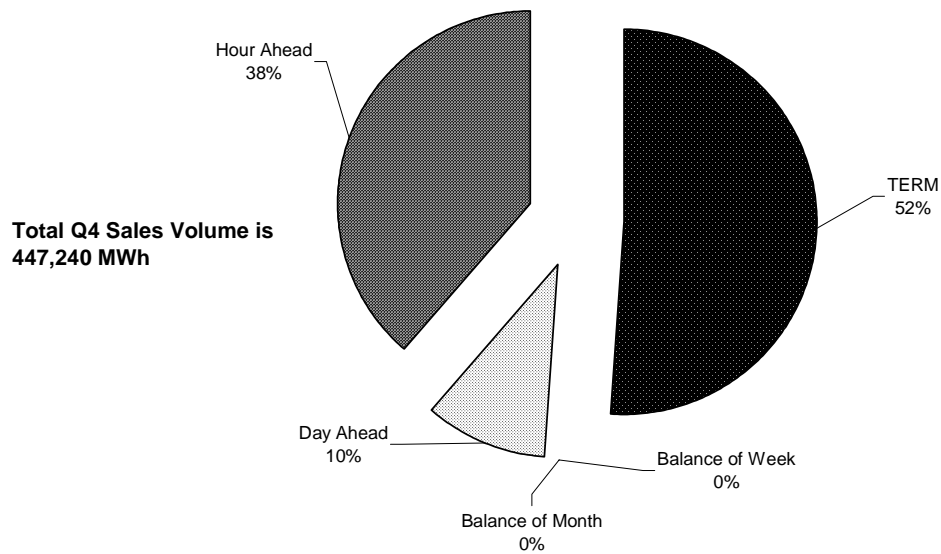
Table 4. Fourth Quarter 2003 Procurement Transactions by Type

Transaction Type	Number of Transactions
Term (Month)	37
Balance of Month	16
Day Ahead/Balance of Week	1,802
Hour Ahead	1,741
Total	3,596

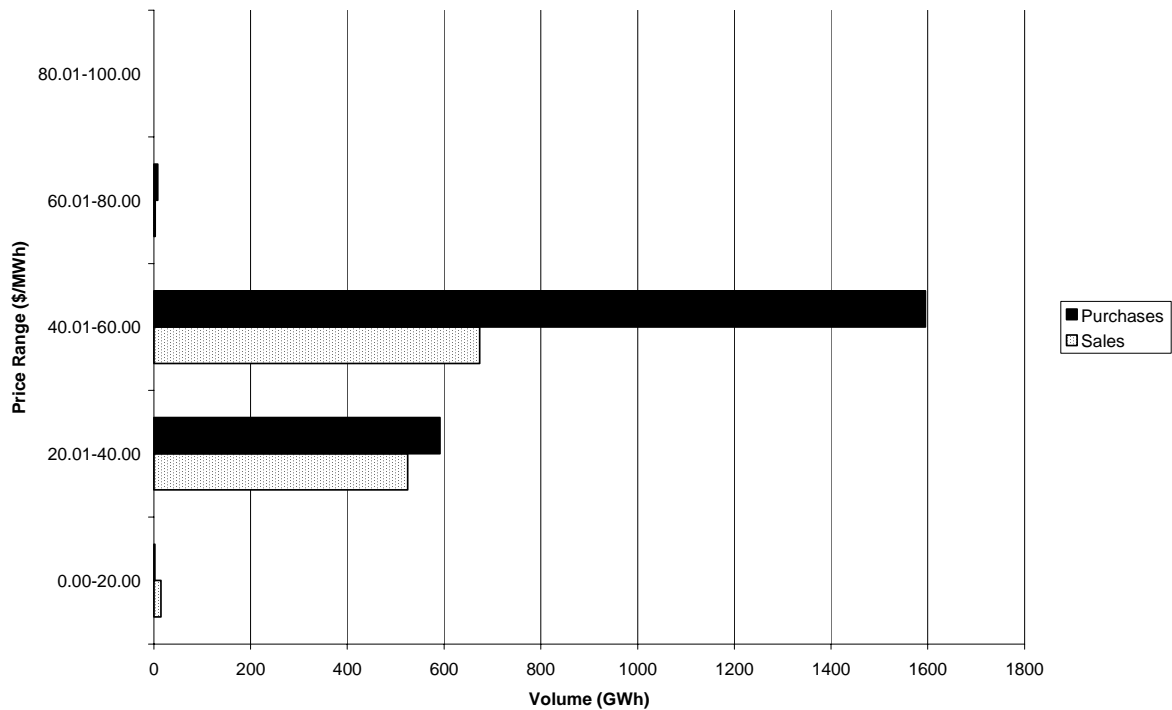
**PG&E Q4 2003 Purchases
by Product Term as Percent of Total Purchase Volume**



**PG&E Q4 2003 Sales
by Product Term as Percent of Total Sales Volume**



Q4 2003 PG&E Electric Purchases and Sales: Price Histogram



PG&E Transacted for Various Commission-Approved Products During 2003.

Each of these product types is included in PG&E's approved 2003-STPP:

- Hour Ahead electricity purchases and sales;
- Day Ahead electricity purchases and sales;
- Balance of Week electricity sales;
- Balance of Month electricity purchases and sales;
- Term (term greater than 27 days) electricity purchases and sales;
- Purchases and sales of ISO real-time imbalance energy and ancillary services
- Locational Swaps
- Heat Rate Option Exchanges
- Fixed Price Call Options
- Full Requirements Gas Services

During 2003, PG&E Transacted (encompassing purchases and sales) with 26 Counterparties for Electricity Products.

The counterparties are listed below.

Arizona Public Service	Avista Energy	BPA	BP Energy
Calpine Energy	CDWR	Constellation Power	Coral Power
Duke Energy Trading	Dynegy	Midway Sunset	Mieco
Mirant	Occidental Power	PowerEx	Reliant
Sierra Pacific Power	SMUD	SDG&E	SCE
Silicon Valley Power	Transalta Energy	Turlock I.D.	LADWP
Portland General	PPM Energy		

PG&E Procurement Focused on Short-Term Products During 2003

All of PG&E's electricity procurement transactions during the first quarter of 2003 had terms of one calendar month or less. PG&E's 2003 STTP does not limit transactions to only one month or less. According to PG&E, a major factor limiting PG&E's procurement products during Q1 was the PUC's Standard of Conduct 7 from D.02-12-074, which placed "commercially unacceptable" terms on bilateral contracts.⁵ Although, the Commission suspended Standard of Conduct 7 or Q1 2003 on December 30, 2002, PG&E asserts that it was nonetheless unable to secure cost-effective transactions with duration greater than one month during Q1.⁶ Ultimately, the Commission eliminated Standard of Conduct No. 7 in D.03-06-067. During the second, third, and fourth quarters of 2003, PG&E executed contracts for electricity products with terms exceeding one month.

Prices that PG&E Paid for Products in 2003 Were Consistent with Price Forecasts.

Each month PG&E provides Energy Division with price forecast data for gas and electricity. The price forecast data covers a rolling 12-month period. PG&E's actual procurement costs for 2003 appear to be consistent with the price forecast data for the reporting period.

During 2003, PG&E Employed Procurement Processes That Were Consistent with its 2003 STTP.

A review of PG&E's compliance filings demonstrates that PG&E's transactions were completed using procurement processes involving brokers, exchanges,

⁵ Standard of Conduct No. 7 from D.02-10-062 states "In order to exercise effective regulatory oversight of the behavior discussed above, all parties to a procurement contract must agree to give the Commission and its staff reasonable access to information within seven working days, unless otherwise practical, regarding compliance with [the Commission's] standards."

⁶ The Commission further extended the suspension of Standard of Conduct No. 7 through the first quarter of 2004 in D.03-02-034.

negotiated bilaterals, Requests for Offers, and the ISO. These processes are consistent with PG&E's approved 2003-STPP.

PG&E Did Not Violate the Commission's Affiliate Transaction Restriction

A review of the approximately 13, 900 transactions entered into by PG&E during 2003 shows that the company did not transact with affiliates.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, a redacted version of this draft resolution was mailed to parties in R.04-04-003 and an unredacted version was distributed to PG&E's Procurement Review Group on October 7, 2004 for comments, and will be placed on the Commission's agenda no earlier than 30 days from today. Comments were due on November 1, 2004. Reply comments were due on November 8, 2004.

PG&E filed comments on November 1, 2004. Overall, PG&E supports adoption of the resolution. However, the utility does express significant concern with respect to the level of public disclosure of procurement information proposed in the confidential version of the draft resolution. PG&E objects to the draft resolution's proposed disclosure of three specific items:

1. References to exact quantities of energy purchased and sold per month for January, February, and March 2003. According to PG&E, such disclosure is inappropriate given that the April 4, 2003 Administrative Law Judge ruling regarding confidentiality established a two-year retrospective window for fuel buying and hedging information. PG&E argues that if fuel purchase and hedging information is protected as confidential, monthly energy purchase and sales information should receive the same confidential treatment.
2. Specific references to PG&E's residual net short/long position in certain hours of the day in January 2003. PG&E objects to such

disclosure because it could harm PG&E's procurement efforts for similar time periods in future years.

3. The specific name of the counterparty awarded a contract by PG&E through an RFO process. According to PG&E, identifying the name of the counterparty tied to a specific transaction could compromise PG&E's future negotiating position. PG&E does not object to the summary list of counterparties the utility transacted with that appears on page 19 of this resolution.

PG&E's arguments regarding these three instances of disclosure are persuasive and we agree that the information should be deleted. We note that disclosure of these three items in this resolution is not needed for the Commission to rule on PG&E's compliance with its procurement plan.

PG&E also comments on several Findings relating to the release of procurement information. PG&E does not propose specific changes to the Findings, rather, its comments address matters of interpretation stemming from certain Findings.

Finding 6: According to PG&E, certain procurement related data may be market sensitive beyond a one-year time horizon. The utility points out that the April 4, 2003 ACR on confidentiality recognizes this notion by establishing a two year retrospective period for certain data.

Today's resolution removes the Finding 6 that appeared in the October 7, 2004 draft.

Finding 7: PG&E takes issue with the Finding's assertion that sensitive market transaction data appearing in the draft resolution has been aggregated by quarterly time periods by indicating that the resolution in fact discloses certain monthly purchase and sale volumes. Although PG&E does not challenge quarterly aggregation of data, it does argue that disclosure of monthly data is inconsistent with Finding 7 and could allow market participants to determine PG&E's net open position on a monthly basis.

With the removal of the monthly data that appeared in the October 7, 2004 draft, this finding does not need to be modified. However, the finding now appears as Finding 6 in today's resolution.

Finding 8: PG&E asserts that this finding is “unjustified since different types of data, whether they are aggregated or not, have different levels of market sensitivity.”⁷ Nevertheless, except as indicated above, PG&E does not object to the level of aggregation of procurement-related information contained in the draft resolution.

We have revised this finding, which is Finding 7 in today’s Resolution, to reflect the fact that the release of the information disclosed today does not harm PG&E’s procurement practices and strategy and is consistent with Section 454.5(g) of the Public Utilities Code.

Finding 9: PG&E states that the PUC is responsible for protecting California ratepayer from the release of market sensitive data which could result in “market manipulation or compromise PG&E’s negotiating ability.”⁸ PG&E cites PU Code Section 454.5(g) as the appropriate standard for establishing whether material is market sensitive.

We have revised this finding, which is Finding 8 in today’s Resolution, to reflect the fact that the information released today allows the public to review the Commission’s oversight of PG&E’s power procurement, but does not harm PG&E’s procurement practices and strategy.

The Office of Ratepayer Advocates (ORA) filed reply comments on November 8 supporting PG&E’s position on the confidentiality of the information included in draft resolution E-3889. In addition, ORA commented that the resolution should state whether the Energy Division verified that the quarterly compliance filings “include all information required by prior Commission decisions,” and should either withdraw the resolution until the verification has occurred, or state that “PG&E is in compliance with all relevant Commission decisions.” ORA also commented that the Energy Division should identify the scope of its review. As examples of the scope of review, ORA asks whether Energy Division reviewed

⁷ Comments of PG&E on Draft Resolution E-3889, November 1, 2004, p. 3.

⁸ Ibid

balancing account entries and least-cost dispatch decisions made by PG&E during the record period.⁹

PG&E responded to a master data request of 10 questions designed to determine compliance with the procurement requirements set by the Commission, as well as to the information requirements contained in D.02-10-062 and D.02-12-074. Based on the data request responses and follow up by the Commission's Energy Division staff, we determine that PG&E complied with the Commission's quarterly compliance filing requirements.¹⁰ We expect the review process to be more efficient when the utilities use the standard responses we directed them to develop in R.04-04-03, but are satisfied that PG&E's 2003 procurement activities substantially complied with Commission-approved procurement plans.

With respect to ORA's question regarding least-cost dispatch decisions and review of balancing account entries, we note that such a review falls outside the scope of the quarterly procurement transaction review process. The proper forum for that review is each utility's Energy Resource Recovery Account application.¹¹

FINDINGS

1. OP No. 8 of D.02-10-062 requires each of the three major electric utilities to file each quarter's procurement transactions that conform to its short-term procurement plan by advice letter following the close of the quarter. The purpose of these compliance filings is to demonstrate that electric and natural

⁹ ORA raised these issues for the first time in reply comments, but we nevertheless respond to these points because they merit a response.

¹⁰ In support of their quarterly compliance filings, the utilities are required to submit Black Model results (for informational purposes) per Ordering Paragraph 10 of D.02-12-074 as well as provide the information specified in Appendix B of D.02-10-062.

¹¹ See D.02-10-062 at page 65 and D.03-06-067 at page 8.

gas procurement activities conducted during the record period conform to the guidelines set forth in the Commission-approved 2003 STTPs.

2. PG&E filed the following Advice Letters in connection with its quarterly procurement transaction compliance showing: (1) AL 2377-E, filed May 1, 2003; (2) AL 2402-E, filed July 15, 2003; (3) AL 2434-E, filed October 30, 2003; (4) AL 2469-E, filed January 30, 2003; and supplemental advice letter AL 2469-E-A, filed on March 16, 2004.
3. PG&E submitted the Appendices to Advice Letters 2377-E, 2402-E, 2434-E, 2469-E, and 2469-E-pursuant to Section 583 of the Public Utilities Code.
4. Both Public Utilities Code Section 583 and General Order 66-C limit disclosure of confidential utility data in the absence of formal action by the Commission or disclosure at a formal hearing.
5. Neither Public Utilities Code Section 583 nor General Order 66-C creates for the utility a privilege of nondisclosure by the Commission.
6. The Energy Division has aggregated the most sensitive transaction data by quarterly time periods.
7. Release in aggregate form of the confidential data submitted by PG&E and as presented in this resolution would not compromise PG&E's power procurement trading strategies and practices and is consistent with Section 454.5(g) of the Public Utilities Code.
8. The information presented in this Resolution allows the public to review the Commission's oversight of power procurement, but does not harm PG&E's procurement practices and strategy.
9. Advice Letters 2377-E, 2402-E, 2434-E, 2469-E, and 2469-E-A were not protested.
10. Energy Division's review of PG&E's quarterly procurement compliance advice letters evaluates whether PG&E's procurement activities during the record period comply with the utility's approved 2003 STPP. The Commission separately reviews cost recovery for these transactions in the ERRR proceeding.

11. D.02-10-062, COL No. 7 stated that the “The Commission’s Energy Division should review the transactions to ensure the prices, terms, types of products, and quantities purchased of each product conform to the approved plan. Consistent with [Assembly Bill] 57, any transaction submitted by advice letter that is found to not comport with the adopted procurement plan may be subject to further review.”

THEREFORE IT IS ORDERED THAT:

1. PG&E’s request that its 2003 quarterly procurement transaction compliance filings be effective is approved.
2. The unredacted version of this resolution shall be posted on the Commission’s website.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on December 16, 2004; the following Commissioners voting favorably thereon:

STEVE LARSON
Executive Director

MICHAEL R. PEEVEY
PRESIDENT

CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners

Resolution E-3889

December 16, 2004

PG&E AL-2377-2402-2434-2469E, 2469-E-A/BXW

I will file a concurrence.

/s/ LORETTA M. LYNCH

Commissioner

Resolution E-3889
PG&E AL-2377-2402-2434-2469E, 2469-E-A/BXW

December 16, 2004

December 29, 2004

TO: PARTIES OF RECORD IN RESOLUTION E-3889

Resolution E-3889 is being mailed without the Concurrence of Commissioner Loretta M. Lynch. The Concurrence will be mailed separately.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Paul Clanon". The signature is fluid and cursive, with a large initial "P" and a long, sweeping underline.

Paul Clanon, Director
Energy Division